



## Executive Summary

Panama boasts the Western Hemisphere's fastest growing economy, with low unemployment, and a stable, democratically elected government. As the home of the Panama Canal and the world's second largest free trade zone, and with an economy nearly 90% based on services, including sophisticated logistics and finance operations, Panama is heavily dependent on foreign investment and has worked to make the investment process attractive and simple for investors. Over the past several years, new trade agreements with the United States, the European Union, Mexico, and Colombia have further increased Panama's openness to foreign investment and have provided new protections and privileges for foreign investors.

Despite these efforts, however, Panama is plagued by a poor educational system, high labor costs, a lack of skilled workers, and consistent reports of corruption, fraud, and a lack of judicial transparency. Foreign investors in Panama have also complained about a lack of transparency in the government procurement process. Because many investors have struggled to have cases addressed expeditiously by Panama's court system, most lawyers recommend binding arbitration clauses in contracts.

Panama elected a new government in May 2014. The new President, Juan Carlos Varela, from the centrist Panameñista party will take office on July 1, 2014. His administration is not expected to make significant changes to the investment climate. Despite the challenges, Panama remains one of the safest and most investment friendly countries in Central America and continues to attract high levels of foreign direct investment both from around the region and around the world.

### 1. Openness to, and restrictions upon, Foreign Investment

Panama actively encourages foreign investment, and with few exceptions, the Government of Panama (GOP) makes no distinction between domestic and foreign companies for investment purposes. Panama continues to enjoy the strongest economic growth in Latin America. It benefits from stable and consistent economic policies and a government that consistently supports trade and open markets. In 2014, the economy is expected to continue to be one of the fastest growing in the world, with predicted growth of 7.3% following expansion of 7.4% in 2013 and 10.6% in 2012. In 2012, Moody's raised Panama's sovereign debt rating to Baa2 and improved their outlook for Panama from "stable" to "positive". Panama's sovereign debt is also rated as investment grade by Fitch (BBB rating) and by Standard and Poor's (BBB rating). Since the October 2012 entry into force of the U.S.-Panama Trade Promotion Agreement (TPA), opportunities have increased for U.S. companies operating in Panama, and exports from the United States to Panama have increased 17%.

While international indices generally rate Panama as one of the best countries in Latin America for business and investment, poor rule of law, lack of judicial independence, a shortage of skilled workers, high levels of corruption, and poorly staffed government institutions all add risk and

complication to business dealings. The U.S. Government continues to assist U.S. investors who have experienced fraud and corruption related to property titles, especially in beachfront areas. However, no new reports of title fraud have been received in the last 12 months. The US has also received complaints from some large investors and potential exporters about inconsistent treatment of concessions and the lack of transparency in government procurement processes.

In 1998, the GOP enacted the Investment Stability Law, which guarantees that foreign investors who invest at least two million dollars in Panama will receive equal treatment under the law to their domestic competition. Under Law 41 (2007), Panama encourages multinational companies to open regional headquarters in Panama by offering various tax incentives; as of December, 2013, 104 international companies have been established under this law.

The United States – Panama Trade Promotion Agreement (TPA) entered into force on October 31, 2012 and has significantly liberalized trade in goods and services, including financial services. The TPA also includes sections on customs administration and trade facilitation, sanitary and phyto-sanitary measures, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, and labor and environmental protection.

Panama is one of the few Latin American economies that are predominantly services-based. Services represent over 80 percent of Panama's Gross Domestic Product. The TPA has improved U.S. firms' access to Panama's services sector and gives U.S. investors better access to the sector than Panama provides to other WTO Members under the General Agreement on Trade in Services. All services sectors are covered under the TPA, except where Panama has made specific exceptions. Under the agreement, Panama has provided improved access in sectors like express delivery, and granted new access in certain areas that had previously been reserved for Panamanian nationals. In addition, Panama agreed to become a full participant in the WTO Information Technology Agreement.

The office of Panama's Vice Minister of International Trade within the Ministry of Commerce and Industry is the principal entity responsible for promoting and facilitating foreign investment and exports. Through its Proinvex service (<http://proinvex.mici.gob.pa>) the government provides investors with information, expedites specific projects, leads investment-seeking missions abroad, and supports foreign investment missions to Panama. In some cases, other government offices may work with investors to ensure that regulations and requirements for land use, employment, special investment incentives, business licensing, and other requirements are met. While there is no formal investment screening by the GOP, the government does monitor large foreign investments.

Panama's privatization framework law does not distinguish between foreign and domestic investor participation in prospective privatizations. The law calls for pre-screening of potential investors or bidders in certain cases to establish technical viability, but nationality and Panamanian participation are not criteria. The Government of Panama undertook a series of privatizations the mid-1990s including most of the electricity generation and telecommunications sectors.

The Panama Canal Authority expects to complete the \$5.25 billion expansion project of the Panama Canal in December of 2015. The project entails building a larger third set of locks, excavating new access channels, deepening Lake Gatun, improving navigational channels, and dredging the canal entrances. The project has been delayed by disputes with the main contractor and construction workers union.

In addition to the expansion project, the Panama Canal Authority procures over \$200 million in goods and services annually for its daily operations and maintenance. Foreign companies can bid on such contracts under the same terms and conditions as Panamanian companies.

The government of President Ricardo Martinelli, which will end in July 2014, invested nearly \$15 billion in infrastructure improvements. Investments included new airports, Central America's first metro system which opened in April 2014, and significant upgrades to roads and highways. President-elect Varela has pledged to continue aggressive investment in infrastructure including additional metro lines and significant upgrades to the country's water and sanitation systems. In addition, Panama's growing economy will require significant investment in electricity generation and transmission capacity over the next decade.

### ***Government Procurement***

Despite improvements to the procurement system in recent years, U.S. companies complain that political interests and connections continue to influence procurement decisions. Panama committed to become a party to the WTO Government Procurement Agreement (GPA) at the time it joined the WTO, but, to date, it remains an observer. Under the TPA, U.S. companies are able to bid on GOP procurements under terms no less favorable than the most favorable treatment that Panama offers its own goods and services suppliers. However, some Panamanian government entities that are state-owned enterprises procure significant amounts are not covered by the TPA. The Tocumen Airport, which is overseeing billions of dollars of airport expansion projects throughout Panama, is one such example.

Panamanian Law 22 of 2006, as amended by Law 48 of 2011, among others, regulates government procurement and related issues. Law 22 was intended to streamline and modernize Panama's contracting system and requires publication of all proposed government purchases. Law 22 also established PanamaCompra, an Internet-based procurement system (<http://www.panamacompra.gob.pa>) through which the Government of Panama evaluates proposals, monitors the procurement process, and holds consultations for public bids, including technical specifications and tender documents. Panama has an administrative court to handle all public contracting disputes. The rulings of this administrative court are subject to review by Panama's Supreme Court.

The TPA also requires Panama to ensure, under its domestic law, that bribery in matters affecting trade and investment, including in government procurement, is treated as a criminal offense or is subject to non-criminal penalties where criminal responsibility is not applicable.

Despite these steps, many observers believe that political interests continue to influence procurement decisions. Panamanian business leaders have requested that sole-source contracting

be used only on an exceptional basis, and U.S. firms have expressed concern about how the Government of Panama establishes and evaluates the criteria used to select a procurement winner. In other instances, U.S. companies have pointed to machinations that appear to favor one company, in particular in procurement actions. Examples include extraordinary requirements for prior experience, exclusion of competing technologies through the use of specifications that appear to be lifted directly from a particular company's marketing materials, government resolutions that limit even private procurements of a certain technology, unreasonably short timeframes on complex tenders, lengthy delays in ratification of a contract award, and simply cancelling the procurement and then reissuing it with little justification. U.S. companies have also alleged that Panamanian government officials may ask outright for payments to guarantee an award, or more indirectly may insist that they partner with a favored local firm.

From January to December 2013, 153,842 contracts, valued at over \$3.8 billion, were awarded by the government of Panama; sole source tendering accounted for \$169 million of these contracts through approximately 2,149 sole-source contracts.

Importing entities are required to hold a license to operate in Panama in order to import manufactured goods into the country. The license may be obtained through Panama's online business registration service "Panama Emprende." Importing entities holding such a license are not required to have a separate import license for individual shipments, except for imports of certain controlled products such as weapons, medicine, pharmaceutical products, and certain chemicals. Another website: <http://panama.eregulations.org/> gives users access to administrative procedures for companies and businesses, such as tax payments and social security enrollment.

## **2. Conversion and Transfer Policies**

Panama does not have an independent monetary policy as it uses the U.S. dollar for its currency and does not have a Central Bank. Inflation has historically been relatively low and stable, falling to an estimated 4.1% in 2013 from 5.7% in 2012.

Panama has no legal restrictions on the transfer abroad of funds associated with or capital employed in an investment. There are no restrictions on capital outflows or convertibility conversion.

## **3. Expropriation and Compensation**

There are no current international arbitration cases alleging direct expropriation of property by the Panamanian government, although several companies are considering pursuing arbitration. Panamanian law recognizes the concept of eminent domain; however, U.S. companies have voiced concern about being reimbursed at fair market value in a case where the government's revocation of a concession adversely impacts access or use of the investors' property.

## **4. Investment/Commercial Dispute Settlement**

Resolving commercial and investment disputes in Panama can be a lengthy and complex process. Despite protections built into the BIT and TPA, investors have repeatedly struggled to resolve investment issues in courts. Panama's court and judicial system is based on a civil code, and not the Anglo-American system of case law and judicial precedent. In September 2011, Panama started the process of converting to the accusatory system with the goal of simplifying and expediting criminal judicial cases. Fundamental procedural rights in civil cases are broadly similar to those available in U.S. civil courts, although some notice and discovery rights, particularly in administrative matters, may be less extensive than in the U.S. Judicial pleadings are not always a matter of public record, nor are the processes always transparent.

There are frequent claims of bias and favoritism in the court system and complaints about the lack of adequate titling, inconsistent regulations, and a lack of trained officials outside of the capital. The World Economic Forum ranks the independence of Panama's judicial system 118 of the 144 countries evaluated. The court system's lack of independence has been demonstrated in recent cases where politically connected businesses benefited from questionable court decisions or convinced the courts to let sensitive cases linger on the docket for years without taking action. Many Panamanian legal firms suggest writing binding arbitration clauses into all commercial contracts.

Panama's commercial law is comprehensive and well-established. Its bankruptcy law is antiquated and is undergoing review and revision, but this process is unlikely to be completed before the next administration takes power in July 2014.

The GOP accepts binding international arbitration of disputes with foreign investors. Panama became a member of the International Center for the Settlement of Investment Disputes (ICSID) in 1996. The United States and Panama signed an amendment to the Bilateral Investment Treaty (BIT) to incorporate Panama's membership into ICSID on June 1, 2000. This amendment took effect in May 2001. Panama also became a member of the World Bank's Multilateral Investment Guarantee Agency (MIGA) in 1997. In 2012, MIGA issued a guarantee to cover a \$250 million loan from Citibank for a portion of the construction of Line 1 of the metro system.

## **5. Performance Requirements and Incentives**

There are no legal performance requirements such as minimum export percentages, significant local requirements of local equity interest, or mandatory technology transfer. There are no established general requirements that foreign investors invest in local companies, purchase goods or services from local vendors or invest in R&D or other facilities, although rules to implement an ethanol mix by fuel distributors limit eligibility for a tax credit to domestically sourced ethanol. There are special tax and other incentives for manufacturers, back office operations and call centers to locate in free zones which are located in most areas of the country. Official support for investment and business activity is especially strong for the Colon Free Zone (CFZ), the banking sector, the tourism sector, and the free zones. Companies in the CFZ pay basic user fees and a 5% dividend tax (or 2% of net profits if there are no dividends). Banks and individuals in Panama pay no tax on interest or other income earned outside Panama. No taxes are withheld on savings or fixed time deposits in Panama. Individual depositors do not pay taxes on time deposits. Free zones offer tax-free status, special immigration privileges, and license and

customs exemptions to manufacturers who locate there. Investment incentives offered by the GOP are available equally to Panamanian and foreign investors. The incentives do not discriminate or distinguish between Panamanians and foreign investors.

## **6. Right to Private Ownership and Establishment**

The GOP imposes some limitations on foreign ownership in the retail and media sectors where, in most cases, ownership must be Panamanian. However, foreign investors can continue to use franchise arrangements to own retail within the confines of Panamanian law (under the TPA, direct U.S. ownership of consumer retail is allowed in limited circumstances).

In addition to limitations on ownership, the exercise of approximately 55 professions is reserved for Panamanian nationals. Specifically, medical practitioners, lawyers, accountants, and customs brokers must be Panamanian citizens. The GOP also requires foreigners in some sectors to obtain explicit permission to work. However, there are no reports of such restrictions hindering U.S. firms operating in Panama.

With the exceptions of retail trade, the media and several professions, foreign and domestic entities have the right to establish, own, and dispose of business interests in virtually all forms of remunerative activity. Foreigners need not be legally resident or physically present in Panama to establish corporations or to obtain local operating licenses for a foreign corporation. Business visas (and even citizenship) are readily obtainable for significant investors.

## **7. Protection of Property Rights**

The U.S. Government has received numerous property dispute complaints from U.S. investors and individual property holders. The complaints include broken contracts, demands for extra payments, title fraud, corruption, and occasional threats of violence. In some cases, these disputes resulted in the loss of the property. Many of these complaints appear to stem from the lack of titled land in Panama, along with inadequate government administration of the property system and a weak judiciary. The majority of land in Panama, and almost all land outside of Panama City, is not titled; a system of rights of possession exists, but there are multiple instances where such rights have been successfully challenged. The World Bank's Doing Business 2014 report notes that Panama has risen to 74 out of 189 countries on the Registering Property indicator, though it still ranks 127 on Enforcing Contracts.

The judicial system's capacity to resolve contractual and property disputes is weak and open to corruption, as illustrated by the most recent World Economic Forum's Global Competitiveness Report, which rates Panama's judicial independence as 118 out of 148 countries. Americans should exercise greater due diligence in purchasing Panamanian real estate than they would in purchasing real estate in the United States. Engaging a reputable attorney and licensed real estate broker is strongly recommended, as is including the option for arbitration in any contract.

Panama enacted Law 80 (2009) to address the lack of titled land in certain parts of the country; however, it does not cure deficiencies in government administration or the judicial system. In 2010, the National Assembly approved the creation of the National Authority of Land

Management (ANATI) to administer land titling; however, decisions taken by ANATI have reinforced investors' concerns regarding government administration, corruption, and the ability of the judicial system to resolve these issues.

Panama has an adequate and effective domestic legal framework to protect and enforce intellectual property rights. The government of Panama is making efforts to strengthen the enforcement of intellectual property rights (IPR). Since 1997, two district courts and one superior tribunal have been exclusively adjudicating antitrust, patent, trademark, and copyright cases. Since January 2003, a specific prosecutor with national authority over IPR cases has consolidated and simplified the prosecution of those cases. Law 1 of 2004 added crimes against intellectual property as a predicate offense for money laundering, and Law 14 establishes a 5 year to 12 year prison term, plus possible fines. Law 10 of 2011 moved the Copyright Office from the Ministry of Education to the Ministry of Commerce and Industry. A Committee for Intellectual Property (CIPI), comprising representatives from five government agencies (Colon Free Zone, Offices of Intellectual Property Registry and Copyright under the Ministry of Commerce and Industry, Customs, and the Attorney General), under the leadership of the Ministry of Commerce and Industry, is responsible for development of intellectual property policy in Panama.

In order to implement the requirements of the TPA, Panama passed Law 62 of 2012 (industrial property) and Law 64 of 2012 (copyrights). These laws introduced important updates to Panama's IPR enforcement legislation. These updates offer improved standards for the protection and enforcement of a broad range of IPR, including protections for patents, trademarks, undisclosed test and other data submitted to obtain marketing approval for pharmaceuticals and agricultural chemicals, and digital copyrighted products such as software, music, text, and videos, as well as further deterrence of piracy and counterfeiting.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

Embassy point of contact: Colombia Primola [PrimolaCE@state.gov](mailto:PrimolaCE@state.gov)

Local lawyers list: <http://panama.usembassy.gov/emergencycontact/list-of-attorneys.html>

## **8. Transparency of the Regulatory System**

In the banking and finance sector, investors generally give good marks to the Panamanian entities that regulate them, notably the Superintendent of Banks. However, U.S. businesses have expressed concern about the responsiveness and transparency of some regulating agencies and the authorities' failure to consult with businesses before enacting policies or implementing new legislation.

In 1999, Panama passed a securities law that established a three-member National Securities Commission to regulate brokers, fund managers, and matters related to the securities industry. In

2012, the Commission structure was modified to follow the successful Banking Commission model and now consists of a superintendent and a board of directors. The Securities Commission is generally considered to be a competent and effective regulator.

Panama is a member of the U.N. Conference on Trade and Development's international network of transparent investment procedures: <http://panama.eregulations.org/>. Foreign and national investors can find detailed information on administrative procedures applicable to investment and income generating operations including the number of steps, name and contact details of the entities and persons in charge of procedures, required documents and conditions, costs, processing time, and legal bases justifying the procedures.

## **9. Efficient Capital Markets and Portfolio Investment**

Panama's 1998 Banking Law with amendments from the 2008 Banking Law regulates the country's financial sector. The law, which concentrates regulatory authority in the hands of a powerful and well-financed Banking Superintendent (<http://www.superbancos.gob.pa>), transformed the previously inadequate regime into one that approaches international standards.

Traditional bank lending from the well-developed banking sector is relatively efficient and is the most common source of financing for both domestic and foreign investors, offering the private sector a variety of credit instruments. The free flow of capital is actively supported by the GOP and is viewed as essential to Panama's large banking sector.

Panamanian and foreign investors are treated equally by government policy and law with respect to access to credit. Panamanian interest rates closely follow international rates (i.e., the London Interbank Offered Rate - LIBOR), plus a country-risk premium.

Some private companies, including multinational corporations, have issued bonds in the local securities market. Companies rarely issue stock on the local market and, when they do, often issue shares without voting rights. Investor demand is generally limited because of the small pool of qualified investors. Interest from time deposits and certain bonds are tax-exempt. There is a 10% withholding tax on dividends, although capital gains from the sale of equities listed on the Panamanian exchange is tax exempt. While wealthy Panamanians may hold overlapping interests in various businesses, there is not an established practice of having cross-shareholding or stable shareholder arrangements, designed to restrict foreign investment through mergers and acquisitions.

There are no restrictions on, nor practical measures to prevent hostile foreign investor takeovers, nor are there regulatory provisions authorizing limitations on foreign participation or control or other practices to restrict foreign participation. There are no government or private sector rules to prevent foreign participation in industry standards setting consortia.

Financing for consumers is also relatively open, as mortgages, credit cards and personal loans, even to those earning modest incomes, are widely available on terms similar to those in the U.S.

The Panamanian Stock Exchange (<http://www.panabolsa.com>) conducted \$3.6 billion in transactions in 2013.

#### **10. Competition from State-Owned Enterprises**

Not Applicable.

#### **11. Corporate Social Responsibility**

Corporate Social Responsibility (CSR) is increasing in importance as Panama's international business profile rises. Local business organizations have started to encourage and recognize companies for their CSR initiatives and the government has taken steps to formally institutionalize CSR practices.

Panama maintains strict domestic laws relating to labor and employment rights and environmental protection. While enforcement of these laws is not always stringent, major construction projects are required to complete environmental assessments, guarantee worker protections and comply with government standards for environmental stewardship. In May 2012, Panama adopted ISO 26000 to guide businesses in the development of CSR platforms. In addition, business groups including the Association of Panamanian Business Executives (APEDE) and the American Chamber of Commerce (AMCHAM) are active in encouraging and rewarding good CSR practices. Since 2009, the AMCHAM has given an annual award to recognize member companies for their positive impact on the local community and environment.

#### **12. Political Violence**

Though Panama is a peaceful and stable democracy, large-scale protests can turn violent and disrupt commercial activity in affected areas. Mining and energy projects have been particularly sensitive, especially those that involve development in the designated indigenous areas (comarcas).

In May 2014, Panama held national elections that international observers agreed were free and fair. The two losing candidates conceded on election night and congratulated the winner. The current President has ordered his government to assist the incoming administration to ensure a peaceful transition. Panama's Constitution provides for the right of peaceful assembly, and the government generally respects this right. No authorization is needed for outdoor assembly, although prior notification for administrative purposes is required. Unions, student groups, employee associations, elected officials, and unaffiliated groups frequently attempt to impede traffic and commerce in order to force the government or business to agree to demands.

Protests in Panama do occasionally become disruptive and violent. In June 2010, the GOP passed Law 30, which revised several aspects of the Labor Code and eight other laws. Labor leaders, environmentalists, the media, and business groups opposed the law. In early July 2010, the Sitrabana union in the province of Bocas del Toro began a strike opposing the law. The strike and related protests turned violent as police intervened. Following a broad-based dialogue with labor, businesses and civil society groups in the wake of the violence, the government revised the law.

In early February 2011, the GOP passed Law 8, which amended the mining code to allow foreign government-owned companies or sovereign wealth fund equity investments to hold equity shares in mining concessions. Indigenous, environmental, media, and student groups sought the revocation of the law through a concerted political campaign, which included daily protests and blocking of major roads and highways. Through a mediated agreement, the government repealed the law in March 2011 and also agreed to restrict mining and hydro plants in the Ngäbe-Buglé comarca in a future bill.

In January 2012, protests erupted in Western Panama concerning hydroelectric and mining concessions around the Ngäbe-Buglé comarca. Protestors shut down the Inter-American highway for six days and were eventually dispersed by the police. Two deaths were reported from the incident.

In October 2012, protests erupted in Colon over Law 71 to sell land in the Colon Free Trade Zone. The protests lasted for several days, resulting in four deaths and many injuries. Protests also spread briefly to Panama City, where some businesses were looted and burned. The Government agreed to repeal the law and hold a dialogue on the issues.

In 2013 and 2014, scattered protests continued especially in the Ngäbe-Buglé comarca, where protesters continue to object to planned hydroelectric development. The largest construction workers union, SUNTRACS, has also convened several strikes, stopping construction activity, and at times impacting traffic and commerce around the country.

### **13. Corruption**

President-elect Varela campaigned on a pledge to eliminate corruption in the government, increase transparency, and prosecute corrupt officials. President Martinelli campaigned on a similar promise in 2009 but his administration was consistently plagued with allegations of corruption by politicians and the business community.

In the most recent edition (2013) of the Transparency International Corruption Perceptions Index, Panama ranked 102 out of 177 countries measured. The Panamanian judicial system continues to pose a problem for investors due to poorly trained personnel, case backlogs, and a lack of independence from political influence. Supreme Court judges are typically nominated to their 10-year terms on the basis of political considerations.

Under Panamanian law, only the National Assembly may initiate corruption investigations against Supreme Court judges and only the Supreme Court may initiate investigations against members of the National Assembly, thereby encouraging, in effect, a “non-aggression pact” between these two branches of government.

The fight against corruption is also hampered by the GOP’s refusal to dismantle Panama’s dictatorship-era libel and contempt laws, which can be used to punish whistleblowers, while those accused of acts of corruption are seldom prosecuted and almost never jailed.

Anti-corruption mechanisms exist, such as asset forfeiture, whistleblower and witness protection, and conflict-of-interest rules. However, the general perception is that anti-corruption laws are not applied rigorously, and that government enforcement bodies and the courts are not effective in pursuing and prosecuting those accused of corruption, particularly in high profile cases. Panama's government lacks strong systemic checks and balances that incentivize accountability. The lack of a strong professionalized career civil service in Panama's public sector also hinders systemic change.

Panama ratified the United Nations' Anti-Corruption Convention in 2005 and the Organization of American States' Inter-American Convention Against Corruption in 1998. However, there is a perception that Panama could more effectively implement the conventions.

Complaints by American investors about allegedly corrupt judicial and governmental decisions prejudicial to their interests remain common and problematic. However, despite allegations of corruption, other than cases involving drug trafficking, GOP officials, judges, and legislators are seldom investigated, much less convicted on corruption charges.

#### **14. Bilateral Investment Agreements**

The United States – Panama Bilateral Investment Treaty (BIT) entered into force in 1991 and was amended in 2001. The BIT ensures that, with some exceptions, U.S. investors receive fair, equitable, and nondiscriminatory treatment, and that both Parties abide by international law standards, such as for expropriation and compensation and free transfers. With the October 31, 2012 implementation of the TPA, the investor protection provisions in the TPA have supplanted those in the BIT. However, until October 30, 2022, investors may choose to invoke dispute settlement under the BIT for disputes that arose prior to entry into force of the TPA, or for disputes relating to investment agreements that were completed before the TPA entered into force.

Panama also has bilateral investment agreements with the United Kingdom, France, Switzerland, Germany, Taiwan Canada, Argentina, Spain, Chile, Uruguay, the Czech Republic, Netherlands, Cuba, Mexico, the Dominican Republic, Korea, Ukraine, Sweden, Qatar, Finland, and Italy. Commerce Ministry officials note that there have been some exploratory talks toward investment agreements with Belgium and Luxemburg , but they acknowledge that these discussions have a lower priority than ongoing free trade negotiations.

#### **15. OPIC and Other Investment Insurance Programs**

The United States and Panama signed a comprehensive Overseas Private Investment Corporation (OPIC) agreement in April 2000. OPIC offers both financing and insurance coverage against expropriation, war, revolution, insurrection, and inconvertibility for eligible U.S. investors in Panama. OPIC can insure up to \$200 million per project for U.S. investors, contractors, exporters, and financial institutions. Financing is available for overseas investments that are wholly owned by U.S. companies or that are joint ventures in which the U.S. firm is a participant. Panama has been a member of the Multilateral Investment Guarantee Agency (MIGA) since 1996.

## 16. Labor

Labor issues are a frequent concern for foreign investors in Panama. Specifically, companies have struggled with the shortage of available workers, especially highly trained and skilled workers, and the cost and complexity of laying off or firing an employee.

Panama's non-agriculture labor force is approximately 1.5 million persons with 4.2% unemployment as of November 2013. Approximately 41% of workers are employed in the informal sector, with a lower rate of informal employment in Panama capital area (37%) compared to the indigenous areas (80%). While the GOP has periodically revised its labor code, including a modest revision in 1995, it remains highly restrictive. Several sectors, including the Panama Canal Authority, the Colon Free Zone, and export processing zones/call centers are covered by their own labor regimes. Employers outside of these areas, such as the tourism sector, have called for greater flexibility, easier termination of workers, and the elimination of many constraints on productivity-based pay. Employers frequently cite the lack of skilled labor and English language speakers as a constraint to growth. The GOP has issued waivers to the regulations on an ad hoc basis in order to address employers' needs, but there is no consistent standard for obtaining such a waiver.

Despite spending of approximately 12.6% of the central government budget and 2.5% of GDP on education, approximately half of students fail their university entrance exam. The 2013 World Economic Forum Global Competitiveness Report ranked Panama 68 out of 144 countries for quality of education and pointed to an inadequately educated workforce as the most problematic factor for doing business. This poor showing underscored the 2010 OECD Program for International Student Achievement (PISA) analysis, which ranked Panama second worst among participating Latin American countries.

According to the World Bank's Doing Business 2013 Report, Panama ranked 55 out of 189 on "The Ease of Doing Business", but in 2010 (the last year for which such rankings were done) 177 out of 183 in "Employing Workers" based on difficulties in hiring and firing workers. Panamanian labor law, in requiring the Labor Ministry's permission to dismiss employees for "economic reasons," may act as a legal barrier for a firm wishing to reduce its workforce or repatriate its capital. If a firm is insolvent, the law also gives workers priority over all other non-secured creditors. The monthly minimum wage varies based on the region of Panama and the industry; the range is between \$250 and \$465 for a forty-hour work week.

Panama experienced some labor disputes during 2013. Employees in companies of more than 40 workers have the right to unionize. Many of the labor disputes in Panama have involved issues of pay or working conditions. In the public sector, teachers and public health workers held brief strikes. Members of the construction workers union also held a series of strikes to demand better pay and working conditions.

## 17. Foreign-Trade Zones/Free Ports

Law 18 of 1948 established the Colon Free Zone (CFZ), which is now the second largest free trade zone in the world, after Hong Kong. Most merchandise (clothing, footwear, electronics,

pharmaceuticals, medicines, perfumes, cosmetics, liquor, cigarettes, textiles, bedding, linens and fine jewelry) is transshipped from the Far East (particularly China, Hong Kong, and Taiwan) through the CFZ to other parts of the Western Hemisphere (particularly Venezuela and Colombia). Through 2011, the CFZ imported/exported \$29.1 billion and \$30 billion in 2012. Over 3,000 companies operate within its 450 hectares.

Law 41 of 2004 provides for the development of “Panama Pacific Special Economic Area” in the former Howard Air Base to encourage investment in the area, particularly in the logistics sector. The process for the establishment of a company in the area takes approximately 4 to 6 months. Dell, WR Grace, 3M, SAMTEC, VF sourcing Latin America, Grainger, Singapore Technologies Aerospace, and Caterpillar are among the 177 multinational companies which are located there. London & Regional, the overall developer, invested \$705 million in the development. Law 32 of 2011 provides updated regulations for the development of free trade zones (not including the Colon Free Zone) in an effort to broaden the Panamanian economic development while promoting investment in former U.S. military bases transferred to Panama. The law also includes specific labor and immigration provisions that are more favorable than the current Panamanian labor code. The government also provides numerous tax incentives to companies that operate in free trade zones. Companies, whether Panamanian or foreign, operating in these zones may import inputs duty-free if products assembled in the zones are to be exported. There are currently 14 free zones with 92 companies registered. They face difficulties due to Panama's higher-than-regional-average wages, limited existing industrial base, and weak infrastructure, particularly outside the Panama-Colon Corridor. Law 25 of 2006 also provides for the development of call centers; seventy-eight companies are currently licensed to operate call centers.

## 18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Panama's foreign direct investment from January-December 2013 was \$4.0 billion, or \$900 million more than in 2012. Total FDI for 2012 is projected to be over 10% of GDP, matching or exceeding the levels of 2006-2008. Rising FDI has been driven by large investments in the mining and energy sectors along with continuing investments in the Colon Free Zone, logistics, financial, maritime, construction and transportation fields. A Canadian company, First Quantum, is developing a \$6.0 billion open pit copper mine which has contributed to the recent upswing in FDI.

**TABLE 1:** The following chart summarizes several well-regarded indices and rankings

INDEX	Year	RANK	SOURCE
Transparency International Corruption Index	2013	102/177	Transparency International <a href="http://cpi.transparency.org/cpi2013/results/">http://cpi.transparency.org/cpi2013/results/</a>
Doing Business	2014	55/189	<a href="#">The World Bank</a>

The Global Competitiveness Index	2014	40/148	<a href="#">World Economic Forum</a>
Global Innovation Index	2013	86/142	<a href="http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener">http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener</a>
Heritage Foundation's Economic Freedom index	2014	71/177	<a href="http://www.heritage.org/index/ranking">http://www.heritage.org/index/ranking</a>

### U.S. FDI in host country/economy

YEAR	AMOUNT
2004	1,019
2005	962
2006	2,498
2007	1,907
2008	2,402
2009	1,772
2010	2,362
2011	2,755
2012	3,132
2013	4,031

**TABLE 3: Sources and Destination of FDI (end of 2012) (<http://cdis.imf.org/>)**

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations (US Dollars, Millions)					
Inward Direct Investment			Outward Direct Investment		
Total Inward	26,762	100%			
United States	4,679	17%			
United Kingdom	3,334	12%			
Colombia	2,702	10%			
South Africa	2,326	9%			
Spain	2,292	9%			

"0" reflects amounts rounded to +/- USD 500,000.

**TABLE 4: Sources of Portfolio Investment (end of 2012) (<http://cpis.imf.org/>)**

<b>Portfolio Investment Assets</b>								
<b>Top Five Partners (Millions, US Dollars)</b>								
<b>Total</b>			<b>Equity Securities</b>			<b>Total Debt Securities</b>		
World	8,630	100%	World	351	100%	World	8,279	100%
United States	4,496	52%	United States	221	63%	United States	4,275	52%
Colombia	709	8%	Canada	44	12%	Colombia	699	8%
Brazil	560	6%	Ireland	35	10%	Brazil	557	7%
Mexico	287	3%	Luxembourg	13	4%	Mexico	287	3%
Peru	252	3%	Colombia	10	3%	Peru	252	3%

**19. Point of Contact for Public Inquiries****Commercial Section**

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